

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA,
NORTHERN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

v.

THE STATE OF ALABAMA and
NANCY L. WORLEY, Secretary of State,
in her official capacity,

Defendants.

CASE NO. 2:06-cv-392-WKW

**SPECIAL MASTER'S SECOND
(OCTOBER 2006) INTERIM REPORT**

Comes now Governor Bob Riley, Governor of the State of Alabama, as Court-appointed Special Master, and files his second monthly interim report detailing the activity and progress made toward implementation of Alabama's single, uniform, official, centralized, interactive computerized statewide voter registration list.

**I. ACTIVITIES OF THE SPECIAL MASTER AND
THE SPECIAL MASTER'S IMPLEMENTATION COMMITTEE**

Activities since the date of the Special Master's first report are as follows:

A. The Special Master's Implementation Committee met on Wednesday, September 13, 2006, to discuss preliminary matters of the Committee. During this meeting the Committee established, as its first priority, the conducting of a public hearing seeking the review, comments, suggestions, and recommendations from the public, and particularly from various stakeholders, including probate judges, local

election officials, advocacy groups, and vendors (with regard to the existing RFP previously issued by the State of Alabama and the proposed RFP to be issued by the State of Alabama).

B. The Committee arranged to hold the public hearing on Tuesday, October 17, 2006, at 10:00 a.m. in the Old House Chamber of the Alabama State Capitol.

C. The Committee issued a Request for Information (RFI) to the various stakeholders as the preliminary step to issuing a new, modified, revised, and/or amended RFP. This RFI is issued as a formal request for public comment, written or oral, reviewing the existing RFP, and recommendations and suggestions relating thereto shall be considered, and used where appropriate, in formulating the proposed RFP to be issued after the public hearing.

D. The Committee also agreed that it would be advisable to directly include the U.S. Election Assistance Commission (EAC) in these processes. Along these lines, they invited Commissioner Donetta Davidson of the EAC to attend the public hearing on October 17, 2006. Commissioner Davidson has informed the Committee that she will be unable to attend, but will work to secure another representative of EAC to attend the public hearing.

E. The Committee has tentatively scheduled a working session for the Implementation Committee only, along with perhaps appropriate attorneys and staff, immediately following the public hearing, to consider a multitude of items, including office space requirements, staffing needs, communication links, records retention policies and processes, and the Committee's calendar/timetable for implementation and related deadlines.

F. The Committee made a formal written request to the Secretary of State for all documents, written and electronic, and all HAVA related items, documents, and correspondence, in the possession of the Secretary of State, to be provided to the Committee for review, use, and organization. This written request included a specific time and date for review, retrieval, and delivery of documents. One hour before the appointed time, the letter from the Secretary of State was hand delivered to a Committee member indicating, in substance, that the Secretary of State would only deal with the Special Master.

G. The Special Master, Governor Bob Riley, immediately corresponded with the Secretary of State reminding her of her obligations under the federal Court Order and requesting that she give her full cooperation to each and every member of the Implementation Committee and to the two attorneys that the Governor has assigned to work with the Committee.

H. The Secretary of State then responded to the request for information/documents by furnishing to the Governor's Legal Office only four vendor proposals to the prior RFP. The Governor's Chief Legal Advisor then met personally with the Secretary of State regarding the extreme inadequacy and non-responsiveness of the produced documents. The Secretary of State responded that they had searched both her office and warehouse and that those documents were the only documents that had been located. She agreed to a further, more in-depth search of both her office and the warehouse.

I. On October 2, 2006, the Secretary of State delivered to the Governor's Legal Office one additional notebook purporting to be the RFP-Voter Registration System notebook of her former attorney, Trey Granger. The Implementation

Committee has not had the opportunity to review this recently-produced notebook, and until such review takes place, will not be able to formulate an opinion of whether or not this response to the production request is reasonable or adequate.

J. The Governor was informed by representatives of the federal government that a federal grant was available to the State of Alabama under a grant program known as the "Election Assistance for Individuals with Disabilities Grant Program," and was informed that the deadline for applying for this grant was only a few days away. The Governor was further informed that the Secretary of State's Office had determined that they did not wish to or intend to apply for this grant. Since the Governor, as Special Master, intends, as a part of the implementation process for the Voter Register System, to accomplish other things, where possible, to assist voting officials throughout the State of Alabama and to benefit the citizens of Alabama, the decision was made that an application would be filed for these grant funds. The application was filed in a timely fashion and ultimately the State of Alabama has been approved to receive grant funds in the amount of \$134,732.

K. The Governor, as Special Master, has filed an Operations Plan with the Executive Budget Office for the operations of the Voter Registration System implementation function.

L. The Governor has been informed by the State Comptroller that apparently the original representations by the Secretary of State as to funds on hand in the Voter Registration System account, was incorrect, and that \$278,093.21 had been spent, leaving a balance of \$12,142,839.17. The Governor, as Special Master, has spent no funds from this account as of the current date.

M. The Governor and his Implementation Committee have established a HAVA-related link on the Governor's web site and will post all HAVA Voter Registration System information and related documents on that web site, for public viewing and reference, including the periodic monthly reports.

Done this 3rd day of October 2006.

Respectfully submitted,

/s/ Kenneth D. Wallis, II
Kenneth D. Wallis, II
Chief Legal Advisor
Office of the Governor

ADDRESS OF COUNSEL:

Office of the Governor
State Capitol, Suite NB-05
600 Dexter Avenue
Montgomery, Alabama 36130
(334) 242-7120 Phone
(334) 242-2335 Fax

CERTIFICATE OF SERVICE

I hereby certify that on August 4, 2006, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

Algert S. Agricola, Jr.

Misty S. Fairbanks

James Harold Anderson

Margaret L. Fleming

Terry G. Davis

Shannon Lynn Holliday

Frank Corley Ellis, Jr.

Christy A. McCormick

R. Randolph Neeley

Donald Palmer

Robert D. Popper

Michael W. Robinson

Winfield J. Sinclair

Edward Still

Gary R. Trawick

Dorman Walker

And I hereby certify that I have mailed by United States Postal Service the foregoing document to the following non-CM/ECF participants:

**John K. Tanner
U.S. Department of Justice
Chief, Voting Section
Civil Rights Division
Room 7254-NWB
950 Pennsylvania Avenue NW
Washington, DC 20530**

**Wan J. Kim
U.S. Department of Justice
Voting Section
Civil Rights Division
Room 7254-NWB
950 Pennsylvania Avenue, NW
Washington, DC 20530**

/s/ Kenneth D. Wallis, II
Kenneth D. Wallis, II
Chief Legal Advisor
Office of the Governor